



## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P-2003-001WO	<b>FOR FURTHER ACTION</b> See Form PCT/PEA/416	
International application No. PCT/DK2004/000003	International filing date (day/month/year) 06.01.2004	Priority date (day/month/year) 06.01.2003
International Patent Classification (IPC) or national classification and IPC H04R25/00		
Applicant OTICON A/S et al.		
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of    sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> sent to the applicant and to the International Bureau) a total of    sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in Item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s))    , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>		
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I    Basis of the opinion</p> <p><input type="checkbox"/> Box No. II    Priority</p> <p><input type="checkbox"/> Box No. III    Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV    Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V    Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI    Certain documents cited</p> <p><input type="checkbox"/> Box No. VII    Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII    Certain observations on the international application</p>		
Date of submission of the demand  30.06.2004	Date of completion of this report  08.07.2005	
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer  Fülöp, I  Telephone No. +31 70 340- 	

**INTERNATIONAL PRELIMINARY REPORT  
ON PATENTABILITY**

International application No.  
PCT/DK2004/000003

**Box No. I Basis of the report**

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:

- ☐ international search (under Rules 12.3 and 23.1(b))
- ☐ publication of the international application (under Rule 12.4)
- ☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the **elements\*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

**Description, Pages**

1-5 as originally filed

**Claims, Numbers**

1-21 as originally filed

**Drawings, Figures**

1-2 as originally filed

☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to sequence listing (*specify*):

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to sequence listing (*specify*):

\* If item 4 applies, some or all of these sheets may be marked "superseded."

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**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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**1. Statement**

Novelty (N)	Yes: Claims	4,9,14,19
	No: Claims	1-3,5-8,10-13,15-18,20-21
Inventive step (IS)	Yes: Claims	
	No: Claims	1-21
Industrial applicability (IA)	Yes: Claims	1-21
	No: Claims	

**2. Citations and explanations (Rule 70.7):**

**see separate sheet**

**INTERNATIONAL PRELIMINARY  
REPORT ON PATENTABILITY  
(SEPARATE SHEET)**

International application No.

PCT/DK2004/000003

**Re Item V.**

- 1 The following document is referred to in this communication:  
D1 : MENGE BRE TSON A M ET AL: "A DIGITAL HEARING AID AND  
COMPUTER-BASED FITTING PROCEDURE" HEARING INSTRUMENTS,  
HARCOURT BRACE JOVANOVICH PUBL. DULUTH, MINNESOTA, US,  
vol. 37, no. 2, February 1986 (1986-02), pages 8,11-12,14, XP000796177  
ISSN: 0092-4466

- 2 Document D1, which appears to be the closest prior art document, discloses all the features of independent claim 1 and corresponding independent claims 6, 11 and 16 (see, especially, first page - left column - middle section and page 3 - right column - down section):

Claims 1, 6, 11 and 16 infringe thus PCT Article 33(2).

- 3 **DEPENDENT CLAIMS 2-5, 7-10, 12-15, 17-21**  
Dependent claims 2-5 and corresponding groups of dependent claims 7-10, 12-15, 17-21 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (PCT Articles 33(2) and (3) PCT) as they are either disclosed in D1 (see figure 1 for claim 2 and corresponding claims, see figure 3 for claim 3 and corresponding claims, see page 2 - right column - upper section for claim 5 and corresponding claims) or simple design options (claim 4 and corresponding claims).